

IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

PROCEEDINGS BEFORE THE 494th

MARICOPA COUNTY GRAND JURY

IN RE:

STEPHEN WETZEL, ANDREW
KUNASEK, SANDRA WILSON, GARY
DONAHOE, THOMAS IRVINE, AND
DAVID SMITH

Defendants.

494th GJ 156

Phoenix, Arizona
March 3, 2010

REPORTER'S TRANSCRIPT OF PROCEEDINGS

ORIGINAL

Janell E. Rose, RPR, CSR
Certified Reporter
Certificate No. 50455

SUPERIOR COURT

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A P P E A R A N C E S

DEPUTY COUNTY ATTORNEY:

Michael Baker

Lisa M Aubuchon

GRAND JURORS PRESENT:

1 MR. BAKER: Start this morning by calling
2 494 GJ 156. This is the continuing investigation that has
3 been in recess of, I believe, six individuals assigned for
4 weekly update, and then we'll progress from that point.

5 Ms. Aubuchon is present to give you an
6 update. Mr. , you can sit here right now or
7 you can leave, as well as Mr. and Ms. you
8 will not take part in the second part of any deliberations

9 MS. AUBUCHON: Good morning. I'm here today
10 to ask that you release the case back to us so that we can
11 assign it out to the special prosecutor. I just want to
12 give you an update.

13 The reason we had asked you to, basically,
14 suspend deliberations was that a Court in the Gary Donahoe
15 matter had entered a stay, as you remember, so that he
16 could go to the Supreme Court and request that the Supreme
17 Court find that there was a conflict.

18 The Supreme Court did hear the case
19 yesterday, and they declined to accept jurisdiction. They
20 did not entertain his motion, and it was sent back to the
21 Trial Court.

22 However, in the meantime, in another case
23 involving Supervisor Wilcox, the Court found we had a
24 conflict and we were disqualified. We are appealing that
25 matter, but the Court also said that in their order that

1 we could select a special prosecutor and they could go
2 forward.

3 So, on that basis, we've requested that the
4 Courts dismiss the other supervisor case, Don Stapley, as
5 well as the Gary Donahoe matter, and allow us to hand
6 those off to special prosecutors.

7 However, despite the fact the Court said we
8 could select someone, the Board is refusing to appoint a
9 special prosecutor. And they're saying that we can't
10 because we have a conflict, even though the Court finding
11 a conflict said that we could.

12 So, we will be litigating that issue. But
13 in the meantime, given the status of the cases, we are
14 asking that you return it to us. It would remain sealed,
15 and then when a new special prosecutor eventually comes
16 on, they would make a determination as to what to do at
17 that point.

18 MR. BAKER: We can also advise you we do not
19 anticipate that the litigation Ms. Aubuchon's been talking
20 about will be completed before your tenor is up.

21 MS. AUBUCHON: That's correct.

22 MR. BAKER: So having noted that, at this point,
23 Mr. , Mr. and Ms. who are not
24 part of the original presentation and not part of the
25 original deliberations as to going into recess or

1 suspension, or whatever you want to refer to, should
2 probably leave. And then we would be --

3 MS. I'm sorry, I have one question
4 before I leave -- although I'm not part of this
5 deliberation -- does this jury have the ability then to
6 make a different decision in this matter as far as end
7 inquiry; or what are the options for this Grand Jury?

8 MR. BAKER: At this point, we are asking that the
9 case, basically, be released, with the intent that in the
10 future, should a special prosecutor choose to represent
11 the case, they will begin again with the entire
12 presentation to whatever Grand Jury is sitting at that
13 point.

14 MR. What are our other choices
15 besides that one?

16 MR. BAKER: Well, you have heard the
17 presentation. You could, at this time, decide that you
18 want a draft indictment; you could end the inquiry; you
19 could call for more witnesses or evidence, as you always
20 have the option of doing.

21 At this point, I'm going to ask that the three
22 individuals who are not part of the original presentation
23 leave the room. I will go ahead and read you again the
24 daily admonitions so that the record is clear that you
25 always know what your options are.

1 After the county attorney has presented the
2 evidence to you, you must decide what you wish to do next.
3 Your options include calling for more witnesses or
4 evidence, ending this inquiry, or pursuant to A.R.S.
5 Section 21-408 requesting that the county attorney prepare
6 a draft indictment for your consideration.

7 Any further questions? And, again, it is the
8 State's request that, basically, you release the case back
9 so that, at such time as a special prosecutor is
10 appointed, that person may take the investigation and
11 proceed with it in whatever manner that person thinks is
12 appropriate in his or her independent judgment.

13 (Thereupon, the Deputy County Attorneys and the
14 Court Reporter were excused from the Grand Jury Room, were
15 subsequently recalled into the Grand Jury Room, and the
16 following proceedings took place:)

17 THE FOREPERSON: The jury has voted to end this
18 inquiry.

19 MR. BAKER: Okay.

20 MS. OBESHAWN: Okay.


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22 (End of proceedings.)
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2 STATE OF ARIZONA)
3) ss.
4 COUNTY OF MARICOPA)
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7 C E R T I F I C A T E
8

9 I, Janell E. Rose, RPR, a Certified Reporter
10 in the State of Arizona, do hereby certify that the
11 foregoing 7 pages constitute a full, true, and accurate
12 transcript of the proceedings had in the foregoing matter,
13 all done to the best of my skill and ability.

14 SIGNED and dated this 10th day of June,
15 2010.

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18 _____
19 JANELL E. ROSE, RPR, CSR
20 Certified Reporter
21 Certificate No. 50455
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